

CHAPTER 201
SUBSIDIZED ADOPTIONS

[Prior to 7/1/83, Social Services(770), Ch 138]
[Previously appeared as Ch 138—renumbered IAB 2/29/84]
[Prior to 2/11/87, Human Services(498)]

***441—201.1(600) Administration.** The Iowa department of human services, through the administrator of the division of behavioral, developmental, and protective services for families, adults, and children, shall administer the subsidized adoption program, in conformance with the legal requirements for adoption as defined in Iowa Code chapter 600.

441—201.2(600) Definitions.

“Child” means a person who has not attained age 18, or a person with a physical or mental disability who has not attained age 21.

“Escrow account” means an interest-bearing account in a bank or savings and loan association which is maintained by the department in the name of a particular child.

“Maintenance subsidy” means a monthly payment to assist in covering the cost of room, board, clothing, and spending money. The child will also be eligible for medical assistance pursuant to 441—Chapter 75.

“Mental health professional” means the same as defined in the department’s rule 33.1(225C,230A).

“Mental retardation professional” means a person who has at least one year of experience working directly with persons with mental retardation or other developmental disabilities and who is one of the following:

1. A doctor of medicine or osteopathy.
2. A registered nurse.
3. A person who holds at least a bachelor’s degree in a human services field including, but not limited to: social work, sociology, special education, rehabilitation counseling, and psychology.

“Nonrecurring expenses” means reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs. These shall be limited to attorney fees, court filing fees and other court costs.

“Physician” means a licensed medical or osteopathic doctor as defined in rule 441—77.1(249A).

“Presubsidy” means payment for maintenance or special services for a special needs child who is placed in an adoptive home but whose adoption is not finalized.

“Special services subsidy” means payment to a provider or the parent for medical, dental, therapeutic, or other services, equipment or appliances required by a child because of a handicapping condition.

441—201.3(600) Conditions of eligibility or ineligibility.

201.3(1) The child is eligible for subsidy when the department or a private agency has documented that it has been unable to place the child in an appropriate adoptive home without a subsidy and the child is determined to be a child with “special needs” based on one or more of the following reasons:

a. The child has a medically diagnosed disability which substantially limits one or more major life activities, requires professional treatment, assistance in self-care, or the purchase of special equipment.

b. The child has been determined to be mentally retarded by a qualified mental retardation professional.

**c.* Rescinded IAB 10/29/03, effective 1/1/04.

*January 1, 2004, effective date of amendments published in the October 29, 2003, Iowa Administrative Bulletin as ARC 2900B delayed 70 days by the Administrative Rules Review Committee at its meeting held November 10, 2003.

d. The child has been diagnosed by a qualified mental health professional to have a psychiatric condition which impairs the child's mental, intellectual, or social functioning, and for which the child requires professional services.

e. The child has been diagnosed by a qualified mental health professional to have a behavioral or emotional disorder characterized by situationally inappropriate behavior which deviates substantially from behavior appropriate to the child's age or significantly interferes with the child's intellectual, social and personal adjustment.

f. The child is aged eight or over and Caucasian.

**g.* The child is aged two or older and is a member of a minority race or ethnic group or the child's biological parents are of different races.

**h.* The child is a member of a sibling group of three or more who are placed in the same adoptive home.

***201.3(2)** A child who enters the United States from another country on the basis of a visa classifying the child as an orphan, in accordance with the Immigration and Naturalization Act, for the purpose of adoption by a specific United States family is not eligible for subsidized adoption maintenance payments, medical assistance, or special services except for nonrecurring expenses. A child entering the country for adoption may be eligible for subsidy for nonrecurring expenses, not to exceed \$2000, in the following situations:

a. Rescinded IAB 8/11/99, effective 10/1/99.

b. The child from another country who meets the criteria in subrule 201.3(1) and whose adoption is finalized after June 14, 1989, must file an application on Form 470-0744, Application for Adoption Subsidy, and complete Form 470-0749, Adoption Subsidy Agreement, prior to or at the time of a final decree of adoption. The claim for reimbursement must be filed on Form 07-350, Purchase Order/Payment Voucher, within two years of the date of the adoption decree and must include receipts.

c. If the adoptive placement disrupts prior to finalization or if the parental rights of the adoptive parents are terminated after the adoption is finalized and the department is named guardian of the child, the child may be eligible for subsidy in another adoptive placement.

201.3(3) Maintenance and child care subsidies for children who were determined to be eligible before January 1, 2004, shall continue unless one of the conditions for termination defined in 441—201.7(600) is present. The child care subsidy payment shall not exceed the applicable reimbursement rate under the child care assistance program as specified in 441—subrule 170.4(7).

201.3(4) The determination of whether a child meets eligibility requirements is made by the Iowa department of human services. An adverse determination may be appealed according to rules in 441—Chapter 7.

***201.3(5)** The department shall review the subsidy agreement when the child reaches the age of 17½ to determine whether the child is eligible to receive a subsidy through the age of 21 due to the child's physical or mental disability.

a. The disability shall be diagnosed by a physician, a qualified mental health professional, or a qualified mental retardation professional.

b. The diagnosis shall be current within one year of the child's eighteenth birthday.

***441—201.4(600) Application.** Application for presubsidy or subsidy shall be made on Form 470-0744, Application for Subsidy, at the time of the adoptive placement of the child, or at any time in the adoptive process before finalization of the adoption.

201.4(1) The prospective adoptive family residing in Iowa who has been studied and approved for adoptive placement or a family residing outside of the state of Iowa studied and approved by a governmental child-placing agency or a licensed child-placing agency in that state, may apply for subsidy for an eligible Iowa child.

201.4(2) Withdrawal of the application for the subsidy shall be reported to the department immediately.

*January 1, 2004, effective date of amendments published in the October 29, 2003, Iowa Administrative Bulletin as ARC 2900B delayed 70 days by the Administrative Rules Review Committee at its meeting held November 10, 2003.

201.4(3) The effective date for the Adoption Subsidy Agreement will be the date the agreement is signed by all parties, which may be the date the child is placed in the adoptive home or any date up to and including the date the adoption is finalized. The agreement shall state the amount of the presubsidy or subsidy, and the frequency and duration of payments.

201.4(4) An application for subsidy cannot be taken after the child is adopted except when one of the following occurs:

**a.* There are facts relevant to a child's eligibility that were not presented before the finalizing of the adoption. Upon receiving verification that the child was eligible before the child's adoption, the department may conduct an administrative review of the facts and may determine the child an eligible special needs child. Eligibility will be effective after Form 470-0744, Application for Subsidy, is completed and Form 470-0749, Adoption Subsidy Agreement, is signed by all parties.

b. The child is adopted as provided in 201.3(2) "a."

*Requests for determining a child an eligible special needs child after the adoption is finalized shall be forwarded with verification of eligibility to the division of behavioral, developmental, and protective services for families, adults, and children, adoption program. The division shall conduct an administrative review of eligibility factors and render a written decision regarding the child's eligibility as a special needs child within 30 days of receipt of request and verification materials unless additional verification is requested. If additional verification is requested, a decision shall be reached within 30 days of receipt of additional verification materials.

441—201.5(600) Negotiation of amount of presubsidy or subsidy.

***201.5(1)** The amount of presubsidy or subsidy shall be negotiated between the department and the adoptive parents and shall be based upon the needs of the child and the circumstances of the family.

a. Each time negotiations are completed, the Adoption Subsidy Agreement, Form 470-0749, shall be completed.

b. Form 470-0762, Agreement to Future Adoption Subsidy, shall be completed and retained in an inactive case record for future reference when:

(1) A child is eligible for subsidy but the child or family does not currently need assistance; or

(2) The child is at risk of being determined a child with special needs according to paragraph 201.3(1) "a," "b," "d," or "e" in the future.

***201.5(2)** Other services available to the family free of charge to meet the needs of the child, such as other federal, state, and local governmental and private assistance programs, shall be explored and used before the expenditure of subsidy funds.

a. Unearned income of the child from sources such as social security, veterans benefits, railroad compensation, trust funds, and the family's insurance shall be used to reduce the amount of the maintenance subsidy, dollar for dollar.

b. Child support payments shall be excluded from consideration in computation of the maintenance subsidy.

c. Unearned income of the child shall be verified by documentation provided to the department worker by the family from the source of the income.

201.5(3) to 201.5(5) Rescinded IAB 5/3/89, effective 7/1/89.

201.5(6) A maintenance subsidy may be no less than \$10 per month.

***201.5(7)** An adoptive family may request a review of the subsidy agreement when there is a change in the family's circumstances or the needs of the child.

201.5(8) Maintenance subsidy shall continue under the same rules if the adoptive family moves outside of the state of Iowa.

***201.5(9)** The maximum monthly maintenance payment for a child in subsidized adoption shall be made pursuant to the foster family care maintenance rates according to the age and special needs of the child as found at 441—subrule 156.6(1) and 441—paragraph 156.6(4)“a.” If, at the time of placement, the child was receiving the special needs payment found at 441—paragraph 156.6(4)“d” or was in group care and would have been eligible for the payment if the child had been in foster care, the child shall be eligible for this payment in a subsidized adoptive placement.

441—201.6(600) Types of subsidy.

201.6(1) Special services only.

a. Reimbursement to the adoptive family or direct payment made to a provider is limited to the following services:

* (1) Outpatient counseling or therapy services. Reimbursement for outpatient individual or family services may be provided from a non-Medicaid provider only with approval from the service area manager or designee and when one of the following applies:

1. The services are not available from a Medicaid provider within a reasonable distance from the family.

2. The child and the family were already receiving therapy or counseling from a non-Medicaid provider and it would not be in the child's best interest to disrupt the services.

3. Available Medicaid providers lack experience in working with foster, adoptive, or blended families.

Reimbursement to non-Medicaid providers shall be limited to the Medicaid rate.

* (2) Expenses for transportation, lodging, or per diem related to preplacement visits, not to exceed \$2000 per family.

(3) Medical services not covered by the Medicaid program shall be limited to an additional premium amount due to the child's special needs to include the child in the family's health insurance coverage group. An adoption subsidy payment shall not supplement the Medicaid payment rate to a Medicaid provider or a non-Medicaid provider.

* (4) Child care, as required by the child's special needs. When a child's special need requires child care as determined by the physician, therapist, or other specialist, the family shall apply for child care assistance or other community resources. A family's eligibility for child care assistance shall be determined before subsidy funds are used. When a child receives the subsidy rate defined in 441—paragraph 156.6(4)“d,” the child is not eligible for child care reimbursement. When subsidy funds are used to pay for child care, the following conditions shall apply:

1. Child care may be provided inside or outside the home.

2. Child care shall be limited to meeting specific needs of the child through a specialized program.

3. The maximum reimbursement rate for child care shall not exceed the child care assistance rate.

4. The department shall review the need for child care reimbursement and the level of reimbursement at the beginning of each fiscal year.

(5) Medical transportation not covered by Medicaid and the family's lodging and meals, if necessary, when the child is receiving specialized care or the child and family are required to stay overnight as part of a treatment plan.

* (6) Supplies and equipment as required by the child's special needs and unavailable through other resources. When a sibling group of three or more are placed together, a one-time-only payment can be made, not to exceed \$500 per child. When home modifications have been authorized to accommodate a child's special needs and the family later sells the house, the family shall repay the department an amount equal to the increase in the equity value of the home attributable to the modifications.

*January 1, 2004, effective date of amendments published in the October 29, 2003, Iowa Administrative Bulletin as ARC 2900B delayed 70 days by the Administrative Rules Review Committee at its meeting held November 10, 2003.

*(7) Attorney fees and court costs necessary to finalize the adoption, limited to \$700 per child. When two or more children are adopted together, the maximum reimbursement rate shall be \$700 for the first child and \$500 for each additional child. Attorney fees may be paid when the adoptive family has negotiated an Agreement to Future Adoption Subsidy, Form 470-0762.

(8) Funeral benefits at the amount allowed for a foster child in accordance with 441—subrule 156.8(5).

b. The need for special services shall be established by a report in the child's record from the private or public agency which had guardianship of the child, and substantiating information from specialists as defined in rule 441—201.2(600).

c. Any single special service and any special service delivered over a 12-month period costing \$500 or more shall have prior approval from the central office adoption program manager prior to expending program funds.

d. For all Medicaid covered services the department shall reimburse at the same rate and duration as Medicaid as set forth in rule 441—79.1(249A).

201.6(2) Maintenance only. A monthly payment to assist with room, board, clothing and spending money may be provided, as determined under 201.5(600). The child will also be eligible for medical assistance pursuant to 441—Chapter 75.

201.6(3) Maintenance and special services. For special needs children, a special services subsidy may also be included when a maintenance subsidy is provided.

441—201.7(600) Termination of subsidy. Subsidy will terminate when any of the following occur:

201.7(1) The adoptive child no longer meets the definition of child in rule 441—201.1(600).

201.7(2) The child marries.

201.7(3) The adoptive parents are no longer using the maintenance payments to support the child.

201.7(4) Death of the child, or death of the parents of the child (one in a single-parent family and both in a two-parent family).

201.7(5) Upon conclusion of the terms of the agreement.

201.7(6) Upon request of the adoptive parents.

201.7(7) The adoptive parents are no longer legally responsible for the child.

201.7(8) The family fails to participate in the renewal process.

441—201.8(600) Reinstatement of subsidy. Reinstatement of subsidy will be made when the subsidy was terminated because of reasons in 201.7(3) or 201.7(6) to 201.7(8) and the reason for termination no longer exists.

441—201.9(600) New application. New applications will be taken at any time, but processed only so long as funds are available. Maintenance and special services already approved will continue.

441—201.10(600) Medical assistance based on residency. Special needs children eligible for any type of subsidy are entitled to medical assistance as defined in 441—Chapter 75. The funding source for medical assistance is based on the following criteria:

201.10(1) IV-E-eligible children:

a. IV-E-eligible children residing in Iowa from Iowa and from other states shall receive medical assistance from Iowa.

b. IV-E-eligible children from Iowa residing in another state shall receive medical assistance from the family's state of residence, even though medical assistance available in the family's state of residence may vary from Iowa's medical assistance.

*January 1, 2004, effective date of amendments published in the October 29, 2003, Iowa Administrative Bulletin as ARC 2900B delayed 70 days by the Administrative Rules Review Committee at its meeting held November 10, 2003.

201.10(2) Non-IV-E-eligible children:

- a. Non-IV-E children from Iowa residing in Iowa shall be covered by Iowa's medical assistance.
- b. Non-IV-E children from Iowa residing in another state shall receive medical assistance from the state of residence when the state has adopted the adoption assistance interstate compact and a contract between Iowa and the family's state of residence is completed. Medical assistance available in the family's state of residence may vary from Iowa's medical assistance.
- c. Non-IV-E-eligible children from another state residing in Iowa shall continue to be covered by the other state's medical assistance unless the state has adopted the adoption assistance interstate compact and a contract between Iowa and the other state exists.

201.10(3) When an Iowa child receives medical assistance from another state, Iowa shall discontinue paying any medical costs the month following the move unless additional time is necessary for a timely notice of decision to be provided to the family. An exception shall be made when the initial Iowa subsidy agreement provides for services not covered by the other states.

441—201.11(600) Presubsidy recovery. The department shall recover the cost of presubsidy maintenance and special services provided by the department as follows:

201.11(1) Funds shall be applied to the cost of presubsidy maintenance and special services from the unearned income of the child.

201.11(2) The department shall serve as payee to receive the child's unearned income. The income shall be placed in an account from whence it shall be applied toward the cost of the child's current care and the remainder placed in an escrow account.

201.11(3) When a child has funds in escrow these funds may be used by the department to meet the current needs of the child not covered by the presubsidy payments and not prohibited by the source of the funds.

201.11(4) When the child leaves presubsidy care, funds in the escrow shall be paid to the adoptive parents, or to the child if the child has attained the age of majority.

*These rules are intended to implement Iowa Code sections 600.17 to 600.21 and 600.23, and 2003 Iowa Acts, House File 667, section 29, subsection 5.

[Filed 2/23/72]

[Filed 4/13/77, Notice 2/23/77—published 5/4/77, effective 6/8/77]

[Filed 3/25/83, Notice 1/19/83—published 4/13/83, effective 6/1/83]

[Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]

[Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]

[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]

[Filed 1/21/88, Notice 12/16/87—published 2/10/88, effective 4/1/88]

[Filed 4/14/89, Notice 3/8/89—published 5/3/89, effective 7/1/89]

[Filed 9/15/89, Notice 7/26/89—published 10/4/89, effective 12/1/89]

[Filed 1/17/91, Notice 11/28/90—published 2/6/91, effective 4/1/91]

[Filed 11/15/91, Notice 9/18/91—published 12/11/91, effective 2/1/92]

[Filed emergency 6/11/92—published 7/8/92, effective 7/1/92]

[Filed 8/14/92, Notice 7/8/92—published 9/2/92, effective 10/7/92]

[Filed 5/14/93, Notice 3/31/93—published 6/9/93, effective 8/1/93]

[Filed 9/17/93, Notice 7/21/93—published 10/13/93, effective 1/1/94]

[Filed emergency 6/16/94—published 7/6/94, effective 7/1/94]

[Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]

[Filed 4/13/95, Notice 2/15/95—published 5/10/95, effective 7/1/95]

[Filed emergency 6/7/95—published 7/5/95, effective 7/1/95]

[Filed 8/10/95, Notice 7/5/95—published 8/30/95, effective 11/1/95]

[Filed emergency 6/13/96—published 7/3/96, effective 7/1/96]

*January 1, 2004, effective date of amendments published in the October 29, 2003, Iowa Administrative Bulletin as ARC 2900B delayed 70 days by the Administrative Rules Review Committee at its meeting held November 10, 2003.

[Filed 8/15/96, Notice 7/3/96—published 9/11/96, effective 11/1/96]
[Filed emergency 6/12/97—published 7/2/97, effective 7/1/97]
[Filed 8/13/97, Notice 7/2/97—published 9/10/97, effective 11/1/97]
[Filed emergency 6/10/98—published 7/1/98, effective 7/1/98]
[Filed 8/12/98, Notice 7/1/98—published 9/9/98, effective 11/1/98]
[Filed emergency 6/10/99—published 6/30/99, effective 7/1/99]
[Filed 7/15/99, Notice 6/2/99—published 8/11/99, effective 10/1/99]
[Filed 8/12/99, Notice 6/30/99—published 9/8/99, effective 11/1/99]
[Filed emergency 6/8/00—published 6/28/00, effective 7/1/00]
[Filed 8/9/00, Notice 6/14/00—published 9/6/00, effective 11/1/00]
[Filed emergency 6/13/01—published 7/11/01, effective 7/1/01]
[Filed 9/11/01, Notice 7/11/01—published 10/3/01, effective 12/1/01]
[Filed 10/10/03, Notice 8/20/03—published 10/29/03, effective 1/1/04*]
[Filed Without Notice 12/16/03—published 1/7/04, effective 3/10/04]

*Effective date of amendments published as ARC 2900B delayed 70 days by the Administrative Rules Review Committee at its meeting held November 10, 2003.